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UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 20 2002

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte JOSEPH J. BERKE and CHARLES T. MICHAEL

Application No. 09/207,634

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on June 10, 2002. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On September 24, 2001, appellants filed an Appeal Brief (Paper No. 15). The examiner indicated in an Advisory Action mailed on December 4, 2001 (Paper No. 16) that appellants' Brief did not comply with 37 CFR § 1.192(c) in that appellants applied a single ground of rejection to two or more claims in the application.

On December 13, 2001, appellants filed an Amended Brief (Paper No. 17). Upon review of the Amended Brief, it appears that appellants' still apply a single ground of rejection to two or more claims in the application. The examiner states on page 2, section (6) of his Answer that "applicant has not addressed the issues related to the final rejection of claims 12 and 14 [further] in view of Smith." However, a further review of appellants' Amended Brief (Paper No. 17) reveals that appellants have rejected claim 23 as being unpatentable over Faraj in view of White. This claim does not appear to be rejected over the stated combination of references in either the Final Rejection mailed on April 15, 2001 (Paper No. 10), or the Examiner's Answer mailed on February 12, 2002 (Paper No. 18). Furthermore, appellants have not addressed the following rejections of claims in their Brief:

- (1) Claim 9 over Faraj and White further in view of Arias
- (2) Claim 9 over Faraj and Brown further in view of Arias
- (3) Claim 12 over Faraj and White further in view of Smith
- (4) Claim 12 over Faraj and Brown further in view of Smith
- (5) Claim 14 over Faraj and White further in view of Smith
- (6) Claim 14 over Brown

Since appellants have grouped the rejected claims differently than that of the examiner in his Final Rejection (Paper No. 10) and the Examiner's Answer (Paper No. 18), it is unclear which claims under which references appellants are arguing.


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Accordingly, it is

ORDERED that the application is returned to the examiner for notifying appellants to clarify for the record the proper rejection of claims on appeal by grouping the claims in accordance with 37 CFR § 1.192(c); for clarifying the status of the rejections of claims 9, 12, 14 and 23; and for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:

  
KIMBERLY JORDAN  
Program and Resource Administrator  
(703) 308-9797

cc: Alex Rhodes  
30100 Telegraph Road  
Suite 460  
Bingham Farms, MI 48025

KJ/clm/dm  
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